

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

IN RE BIOGEN '755 PATENT LITIGATION)))))))	Hon. Claire C. Cecchi Civil Action No. 10-2734 (CCC/JBC) (consolidated)
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**STIPULATION REGARDING ENTRY OF FINAL JUDGMENT
WITH RESPECT TO BAYER AND NOVARTIS**

Plaintiff Biogen MA Inc. (“Biogen”) and Defendants Bayer HealthCare Pharmaceuticals Inc. (“Bayer”) and Novartis Pharmaceuticals Corp. (“Novartis”) hereby stipulate as follows:

WHEREAS Biogen’s case against Bayer and Novartis was severed from Biogen’s case against Defendants EMD Serono, Inc. and Pfizer Inc. (collectively, the “Serono Defendants”), *see* ECF No. 743, but remains pending under the above case caption;

WHEREAS following the issuance of the mandate in the Serono Defendants' appeal to the U.S. Court of Appeals to the Federal Circuit, the Serono Defendants have asked this Court to enter judgment in their favor, ECF Nos. 1110, 1111;

WHEREAS Bayer and Novartis contend that because the Federal Circuit’s decision invalidated claim 1 of U.S. Patent No. 7,588,755, which is the sole claim asserted against Bayer and Novartis, following the Federal Circuit’s mandate, Biogen no longer has a cause of action against Bayer and Novartis, and Bayer and Novartis are entitled to prompt entry of judgment in their favor, including for the reasons set forth in the Seroxo Defendants’ letters to the Court, ECF Nos. 1110, 1116;

WHEREAS Biogen contends that entry of final judgment is premature because the time for filing a petition for writ of certiorari has not expired and because Biogen seeks additional claims in a reexamination before the U.S. Patent and Trademark Office, and for the

reasons further set forth in its letters responding to the Serono Defendants, ECF Nos. 1115, 1120; and

WHEREAS Biogen, Bayer, and Novartis seek to avoid unnecessary additional briefing of the issues set forth in Biogen's and the Serono Defendants' letters;

NOW THEREFORE, it is hereby **STIPULATED AND AGREED** by the undersigned counsel for Biogen, Bayer, and Novartis that in the event the Court enters judgment in favor of the Serono Defendants, as they have requested, Biogen does not oppose simultaneous entry of judgment in favor of Bayer and Novartis. For avoidance of doubt, Biogen reserves the right to address the terms of any proposed form of judgment submitted by Bayer and Novartis.

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